

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B**

FILED

AUG 19 2008

**LESLIE W. STEEN
CLERK**

IN RE: GAIL L. ANDERSON
ARKANSAS BAR ID No. 95224
CPC DOCKET NO. 2006-140

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Felicia D. Delph. The information related to the representation of Ms. Delph by Gail L. Anderson, Attorney at Law, Little Rock, Arkansas, in 2005.

In January, 2005, Felicia D. Delph went to the office of Gail Anderson for legal assistance concerning a divorce and met with Ms. Anderson's assistant, Amanda Johnson. While in Ms. Anderson's law office, Ms. Johnson asked questions and took notes. Ms. Johnson said that she would give the information to Ms. Anderson to look over and she would then call with any information. Ms. Delph gave Ms. Johnson \$150 in cash and a \$450 check. Ms. Anderson denied that she was employed by Ms. Delph to represent her in a divorce matter.

Ms. Anderson stated that Ms. Johnson told her about a friend who had come by the office to talk to her about a divorce, that she had met with Ms. Delph, and had guessed at a price that Ms. Anderson would likely charge for a divorce proceeding. Ms. Anderson stated that she told Ms. Johnson that she was not taking new clients and that she would not have taken a divorce case in Conway County, Arkansas, for \$450. Ms. Anderson stated that she took the check Ms. Delph left and wrote "refused and void" on the check and directed Ms. Johnson to inform Ms. Delph that she would not be accepting her case. Ms. Anderson then fired Ms. Johnson in the middle of

March, 2005.

Ms. Delph stated that weeks went by without hearing from Ms. Anderson so she called Ms. Anderson's office and spoke several times with the lady that answered the phone. On March 14, 2005, Ms. Delph called once to Ms. Anderson's office in Little Rock and once to her office in Marianna. She also called Ms. Anderson's office on March 15, 2005, and March 16, 2005. Ms. Delph left a message each time and was told that Ms. Anderson would get the message. According to Ms. Delph, she never received a call from Ms. Anderson. On March 17, 2005, she spoke to Ms. Johnson and left a message.

On March 24, 2005, Ms. Delph sent a letter to Ms. Anderson asking that she give a refund if she were not willing to pursue the divorce. The letter was returned to Ms. Delph as "unclaimed."

Ms. Delph called Ms. Anderson's office on March 27 and spoke to Ms. Johnson. Ms. Johnson stated that she did not know why Ms. Anderson had not returned the telephone calls or filed any papers but that she would finish filing the divorce papers and would have Ms. Delph's husband served. Ms. Johnson stated that she would charge \$75 for her to have Ms. Delph's husband served with papers.

Ms. Delph called Ms. Johnson on March 28 and 29, 2005, to check on the status of her divorce case. Ms. Delph denied that she failed to return any telephone calls.

On March 31, 2005, from a Kroger store in Little Rock, Ms. Johnson faxed to the Conway County Circuit Clerk a Complaint for Divorce on Ms. Delph's behalf. Thereafter, Ms. Delph received a call from Ms. Johnson who told her that she needed to go to the Conway County Circuit Clerk's office, sign the documents that were there waiting, and pay the filing fee.

Ms. Delph went to the Clerk's office, signed the documents and paid the filing fee. The Complaint was received by the Conway County Circuit Clerk on March 31 and filed the same date.

Ms. Delph called Ms. Anderson's office several times thereafter asking when her husband would be served with a divorce complaint. Ms. Delph was told by Ms. Johnson that she would get right to it. When Ms. Delph called Ms. Anderson's office on April 19, 2005, the telephone had been disconnected. Ms. Delph has not spoken to either Ms. Anderson or Ms. Johnson since.

Thereafter, Ms. Delph received a telephone call from a person named Kim McQuain at the Conway County Circuit Clerk's office. Ms. McQuain stated that they tried called Ms. Anderson's office, left messages and did not get a returned call. Ms. McQuain provided Ms. Delph with a copy of a letter that was sent to Ms. Anderson on April 27.

Ms. McQuain sent a second letter dated May 26, 2005, to Ms. Anderson asking her to respond to the April 27, 2005, letter. Ms. Anderson stated that she received a letter from the Conway County Circuit Court Clerk and called the Clerk's office to assure them that she did not represent Ms. Delph. Ms. Anderson stated that she called Ms. Johnson and was informed that she and Ms. Johnson had agreed to work together to prepare the divorce documents.

On May 22, 2005, a letter was sent on Ms. Delph's behalf to her husband, advising him that a divorce action had been filed. The letter bore the name of "Pro Docs Assisting", 5819 Young Road, Little Rock, AR 72209. Ms. Delph stated that she did not prepare the letter and that it must have been prepared by Ms. Johnson. Ms. Delph's husband signed for the Complaint on June 1, 2005. A letter was sent to the Clerk asking that the matter be set for hearing. Ms. Delph stated that she did not prepare this letter either. Ms. Johnson stated that the documents

were not prepared on the computer at her office and was not printed from her printer as she did not use the type of fonts as contained on the documents.

Ms. Anderson denied that she permitted Ms. Johnson to engage in unauthorized practice of law while employed in her law office. Further, Ms. Anderson denied that she failed to properly supervise Amanda Johnson while in the employ of her law office. Ms. Anderson stated that Ms. Johnson was a part-time employee who was hired by her for a short period of time for the purpose of creating a filing system and answering the telephone. She stated that she had no knowledge of the preparation of any of the documents prepared on behalf of Ms. Delph until receiving a letter from the Conway County Circuit Clerk.

Upon consideration of the formal complaint and attached exhibit materials, the failure to respond to it, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Gail Anderson violated Rule 1.3 when she was employed by Felicia Delph to represent her in a divorce proceeding in Conway County but failed to pursue any legal action on her behalf. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a lawyer.

2. Gail Anderson violated Rule 1.4(a)(3) when Felicia Delph placed numerous calls to the office of Gail Anderson seeking information about the status of her case with no calls returned by Ms. Anderson. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

3. Gail Anderson violated Rule 5.3(b) when Ms. Anderson employed, retained or was associated with Amanda Johnson, a nonlawyer, who engaged in conduct that violated Rule 8.4(c)

of the Arkansas Rules of Professional Conduct, specifically, Ms. Johnson engaging in the unauthorized practice of law. Rule 5.3(b) states that with respect to a nonlawyer employed or retained by or associated with a lawyer, a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer

4. Gail Anderson violated Rule 5.5(a) when she assisted Amanda Johnson in the unauthorized practice of law by allowing her complete access to Ms. Anderson's law office and clients without supervising her conduct. Rule 5.5(a) provides that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

5. Gail Anderson violated Rule 8.4(c) when she permitted Amanda Johnson to engage in the unauthorized practice of law by drafting legal documents and misrepresenting to the client who was preparing the documents. Rule 8.4(c) states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

6. Gail Anderson violated Rule 8.4(d) when she failed to properly supervise Amanda Johnson, whose conduct created an unnecessary delay in the conclusion of Felicia Delph's divorce proceeding and when she failed to address the concerns of Felicia Delph which were made by telephone and letter which created an unnecessary delay in the resolution and conclusion of Ms. Delph's divorce proceedings. Rule 8.4(d) states that a lawyer shall not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that GAIL L. ANDERSON,

Arkansas Bar ID No. 95224, be, and hereby is, REPRIMANDED; fined the sum of Five Hundred Dollars; directed to pay restitution in the amount of SIX HUNDRED EIGHT DOLLARS AND FORTY-SEVEN CENTS (\$608.47); and assessed costs in the sum of FIFTY DOLLARS (\$50.00) for her conduct in this matter. Ms. Anderson was served with a Formal Complaint on July 24, 2007, but did not file a timely answer to the Formal Complaint within twenty (20) days of service. On August 20, 2007, Ms. Anderson tendered a late response. For her failure to respond to the Formal Complaint, Ms. Anderson is CAUTIONED and fined the sum of Two Hundred Fifty (\$250.00) for her conduct in this matter. The costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By: _____

Henry Hodges, Chair, Panel B

Date: _____

November 9, 2007